

EXHIBIT 1

INTRODUCTION

Respondent Jeff Palmisano was a member of the Planning Commission for the City of Delano from October 1, 2000 through October 6, 2003. As a planning commissioner, Respondent held an office that is described in section 87200 of the Political Reform Act (the “Act”).¹ Pursuant to sections 87202 and 87203, every person who holds an office described in section 87200 is required to file statements of economic interests, an assuming office, and an annual statement of economic interests, disclosing his or her reportable economic interests held during the preceding calendar year.

For purposes of this Default, Decision and Order, Respondent’s violations of the Act are as follows:

- COUNT 1: As a member of the Planning Commission for the City of Delano, Respondent Jeff Palmisano failed to file a 2001 annual statement of economic interests by the April 2, 2002 due date, in violation of section 87203 of the Government Code.
- COUNT 2: As a member of the Planning Commission for the City of Delano, Respondent Jeff Palmisano failed to file a 2002 annual statement of economic interests by the April 1, 2003 due date, in violation of section 87203 of the Government Code.
- COUNT 3: As a member of the Planning Commission for the City of Delano, Respondent Jeff Palmisano failed to file a leaving office statement of economic interests by the November 5, 2003 due date, in violation of section 87204 of the Government Code.

PROCEDURAL HISTORY

An enforcement action was initiated against Respondent Jeff Palmisano with a Report in Support of a Finding of Probable Cause being served on Respondent by certified mail and regular mail on December 4, 2003. Along with the Report in Support of a Finding of Probable Cause, Respondent was served with documents explaining the administrative enforcement process and informing him that he had 21 days in which to request a probable cause conference with the Executive Director of the Fair Political Practices Commission (the “FPPC”), and to file a written response to the probable cause report, to present any defenses that he may have.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Respondent did not request a probable cause conference, or file a written response to the probable cause report. On February 11, 2004, Executive Director Mark Krausse issued an Order Finding Probable Cause, as to each of the three counts alleged in the probable cause report. On February 18, 2004, the Order Finding Probable Cause was served on Respondent by mail.

Pursuant to the California Administrative Procedure Act (the “APA”),² a respondent is entitled to a hearing on the merits if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that a respondent’s failure to file a Notice of Defense constitutes a waiver of the respondent’s right to a hearing. (Section 11506, subd. (c).) Section 11520, subdivision (a), also provides that a default may be taken if the respondent fails to timely file a Notice of Defense.

The Accusation in this matter was personally served on Respondent Jeff Palmisano on November 10, 2004. The proof of service is attached hereto as Attachment A. Along with the Accusation, the Enforcement Division served Respondent with a “Statement to Respondent” which notified Respondent Palmisano that he could request a hearing on the merits and warned him that, unless a Notice of Defense was sent within fifteen days of service of the Accusation, he would be deemed to have waived his right to a hearing.

More than fifteen days have elapsed and Respondent Palmisano has not filed a Notice of Defense.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, that may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87203 requires every person who holds an office listed in section 87200 to file, at a time specified by the FPPC’s regulations, a statement of economic interests disclosing his or her reportable investments, interests in real property, and sources of income held at any time during the preceding calendar year. A member of a planning commission is one of the offices listed in section 87200. Under regulation 18723, subdivision (b)(2), the due date for a city planning commissioner to file an annual statement of economic interests is April 1st of each year, or the next business day after April 1st, if April 1st falls on a Saturday, Sunday, or official holiday. Additionally, section 87204 requires every person who holds an office listed in section 87200 to file a statement of economic interests within 30 days of leaving office, disclosing his or her reportable investments, interests in real property, and sources of income held or received during the period beginning the closing date of the last statement required to be filed and ending the date he or she leaves office.

Under section 87500, subdivision (g), a planning commissioner must file his or her statements of economic interests with the planning commission, which shall retain a copy of the statement and forward the original to the FPPC, which is the filing officer for members of

² The California Administrative Procedure Act is contained in Government Code sections 11370 through 11529.

planning commissions.

SUMMARY OF THE FACTS

According to records maintained by the City of Delano, Respondent was a member of the Delano Planning Commission from October 1, 2000 until October 6, 2003. As a planning commissioner, Respondent is required to file an annual statement of economic interests for each year that he remains in office, and he was required to file a statement of economic interests within 30 days after leaving office.

At all times relevant to this matter, Respondent Palmisano was a member of the Delano Planning Commission.

COUNT 1

Failure to File a 2001 Annual Statement of Economic Interests

As a member of the Delano Planning Commission, Respondent was required by section 87203 to file a 2001 annual statement of economic interests by April 2, 2002, because April 1st fell on a holiday in 2002.

According to records maintained by the SEI Unit of the FPPC's Technical Assistance Division (the "SEI Unit"), Respondent failed to file a 2001 annual statement of economic interests by the April 2, 2002 due date.

On June 27, 2002, Cynthia Fisher of the SEI Unit sent a letter to Respondent, informing him that his 2001 annual statement of economic interests was past due, and asking him to file the statement within 30 days. On August 2, 2002, Ms. Fisher sent another letter to Respondent, informing him that his 2001 annual statement of economic interests remained past due, and advising him that the matter would be referred to the FPPC's Enforcement Division, if the delinquent statement was not received within ten days. In spite of these notices, Respondent did not file a 2001 annual statement of economic interests, and the matter was referred to the Enforcement Division.

According to investigative records, on October 3, 2002, Mary Ann Kvasager, the SEI Coordinator for the Enforcement Division, contacted Respondent by telephone. During that conversation, Ms. Kvasager informed Respondent that his 2001 statement of economic interests was past due, and instructed him to file the statement immediately.

According to records maintained by the SEI Unit, Respondent has not yet filed a 2001 annual statement of economic interests.

By failing to file a 2001 annual statement of economic interests by the April 2, 2002 due date, Respondent violated section 87203.

COUNT 2

Failure to File a 2002 Annual Statement of Economic Interests

As a member of the Delano Planning Commission, Respondent was required by section 87203 to file a 2002 annual statement of economic interests by April 1, 2003.

According to records maintained by the SEI Unit, Respondent failed to file a 2002 annual statement of economic interests by the April 1, 2003 due date.

On October 27, 2003, Cynthia Fisher of the SEI Unit sent a letter to Respondent, informing him that his 2002 annual statement of economic interests was past due, and asking him to file the statement within 30 days.

According to records maintained by the SEI Unit, Respondent has not yet filed a 2002 annual statement of economic interests.

By failing to file a 2002 annual statement of economic interests by the April 1, 2003 due date, Respondent violated section 87203.

COUNT 3

Failure to File a Leaving Office Statement of Economic Interests

According to records maintained by the City of Delano, Respondent left office as a member of the Delano Planning Commission on October 6, 2003, when the Planning Commission was disbanded by the City. Respondent was required to file a statement of economic interests within 30 days of the date he left office. As such, the due date for Respondent to file a leaving office statement of economic interests was November 5, 2003.

According to records maintained by the SEI Unit, Respondent failed to file a leaving office statement of economic interests by the November 5, 2003 due date.

According to records maintained by the SEI Unit, Respondent has not filed a leaving office statement of economic interests.

By failing to file a leaving office statement of economic interests by the November 5, 2003 due date, Respondent violated section 87204.

CONCLUSION

This matter consists of two counts of violating section 87203, and one count of violating section 87204, which carry a maximum administrative penalty of Fifteen Thousand Dollars (\$15,000) under section 83116, subdivision (c). Since implementing the SEI Streamlined Program, the typical administrative penalty imposed by the FPPC for a respondent who has failed to file statements of economic interests and who has failed to respond to the Enforcement Division's attempts to resolve the matter is \$2,000 for each statement that has not be filed. In

this case, the Respondent has not filed a 2001 and 2002 annual statement and a leaving office statement despite numerous requests that he do so. Therefore, a penalty in the amount of \$2,000 for each of the three violations of the Act is appropriate. Accordingly, the facts of this case justify imposition of an administrative penalty of in the amount of Six Thousand Dollars (\$6,000). The facts also justify the issuance of an order, pursuant to section 83116, subdivision (b), that the Respondent file all three of the delinquent statements of economic interests.